

E-FILED on 2/7/13

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

HOLOGIC, INC. CYTYC CORPORATION  
and HOLOGIC L.P.,

Plaintiffs,

v.

SENORX, INC.,

Defendant.

No. C-08-0133 RMW

**ORDER DENYING DEFENDANT  
SENORX'S MOTION TO FILE UNDER  
SEAL THE ENTIRETY OF EXHIBIT 14  
TO THE DECLARATION OF ADAM D.  
HARBER IN SUPPORT OF SENORX'S  
MOTION FOR SUMMARY JUDGMENT**

**[Re: Dkt. No. 525]**

SenoRx moved to file under seal the entirety of Exhibit 14 to the declaration of Adam D. Harber in support of SenoRx's motion for summary judgment on the basis that "Exhibit 14 contains information designated by Plaintiffs as 'Highly Confidential'" under the protective order in this case. Mot. 2, Dkt. No. 525. Having reviewed Exhibit 14, the court finds nothing contained therein that is in fact "privileged or protectable as a trade secret or otherwise entitled to protection under the law." Civ. L.R. 79-5(a). Pursuant to the local rule, "[a] stipulation, or a blanket protective order that allows a party to designate documents as sealable, will not suffice to allow the filing of documents under

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1 seal" for that reason alone. Pursuant to Civil Local Rule 79-5(d), within 7 days of SenoRx's sealing  
2 motion, plaintiff was required to:

3 file with the Court and serve a declaration establishing that the designated  
4 information [in the Protective Order] is sealable, and . . . lodge and serve a narrowly  
5 tailored proposed sealing order, or must withdraw the designation of confidentiality.  
If the designating party does not file its responsive declaration as required by this  
subsubsection, the document or proposed filing will be made part of the public record.

6 Civ. L.R. 79-5(d). Accordingly, the court DENIES the sealing motion, with leave to re-file if any  
7 particular portion of Exhibit 14 is indeed a trade secret or otherwise privileged information.

8  
9 DATED: February 7, 2013

  
RONALD M. WHYTE  
United States District Judge

United States District Court  
For the Northern District of California